



**U.S. Citizenship
and Immigration
Services**

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 9608657

Date: AUG. 13, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Advanced Degree Professional

The Petitioner, a manufacturer, seeks to employ the Beneficiary as a production associate manager (castings). It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that the Beneficiary's university degree from Mexico was the foreign equivalent of a U.S. bachelor's degree.

The Petitioner bears the burden to establish eligibility for the requested immigration benefit. See section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will sustain the appeal.

Immigration as an advanced degree professional usually follows a three-step process. First, the prospective employer must obtain a labor certification approval from the U.S. Department of Labor (DOL) to establish that there are not sufficient U.S. workers available for the offered position. Section 212(a)(5) of the Act, 8 U.S.C. § 1182(a)(5). Second, the employer must submit the approved labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). Section 204 of the Act, 8 U.S.C. § 1154. The immigrant visa petition must establish that the foreign worker qualifies for the offered position, that the foreign worker and the offered position are eligible for the requested immigrant classification, and that the employer has the ability to pay the proffered wage. See 8 C.F.R. § 204.5. Finally, if USCIS approves the immigrant visa petition, the foreign worker may apply for an immigrant visa abroad or, if eligible, for adjustment of status in the United States. Section 245 of the Act, 8 U.S.C. § 1255.

For immigrant visa petitions requesting advanced degree professional classification, the beneficiary must possess (a) an academic or professional degree above that of U.S. baccalaureate; or (b) a U.S. baccalaureate followed by at least five years of progressive experience. 8 C.F.R. § 204.5(k)(2). A foreign equivalent degree is accepted in lieu of a U.S. degree. *Id.*; see also 8 C.F.R. § 204.5(k)(3)(i).

Petitions based on a labor certification must also establish that the beneficiary satisfied the minimum requirements of the offered position that are set forth on the labor certification by the priority date.¹ 8 C.F.R. § 103.2(b)(1), (12). See *Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg. Comm. 1977); see also *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). In this case, the labor certification states that offered position requires a U.S. bachelor's degree (or foreign educational equivalent) in engineering or a related field of study and five years of experience in the job offered.²

At issue on appeal is whether the Beneficiary's 2004 Titulo de Ingeniero en Sistemas Computacionales degree from [REDACTED] Mexico is the foreign equivalent of a U.S. bachelor's degree in computer systems engineering to satisfy the educational requirements of the labor certification and the advanced degree professional classification.

The petition contained a translated copy of the Beneficiary's diploma and an academic equivalency evaluation. The evaluation states that the Beneficiary's degree is "the foreign equivalent of a four-year Bachelor of Science Degree in Computer Engineering from an accredited U.S. college or university." The evaluation notes that this conclusion is confirmed by the Electronic Database for Global Education (EDGE) of the American Association of Collegiate Registrars and Admissions Officers (AACRAO).³ The evaluation contains a copy of the EDGE report for titulo degrees from Mexico.

According to EDGE, a four-year or five-year titulo degree from Mexico is comparable to a U.S. bachelor's degree, but a three-year titulo degree is not.

The Director issued a request for evidence instructing the Petitioner to provide official transcripts showing the Beneficiary's "dates of attendance, courses completed, area of study, and date of degree award." In response the Petitioner submitted the Beneficiary's academic transcripts, translated diploma, and translated license as a computer systems engineer. The Beneficiary's transcript shows that he attended university for three years, consisting of three academic "cuatrimestres" (quarters) each year, for a total of nine cuatrimestres. The transcript provided the dates of each cuatrimestre.

The Director's decision, noting the findings in EDGE related to three-year titulo degrees and the fact that the Beneficiary completed his degree in three years, found that the Beneficiary did not possess the foreign equivalent of a U.S. bachelor's degree as required by the terms of the labor certification and the requested advanced degree professional classification.

On appeal, the Petitioner claims that each period of study stated on the Beneficiary's transcript (the "cuatrimestres") are more accurately translated as 14-week trimesters, and that the Beneficiary

¹ The priority date of an immigrant visa petition is the date on which the DOL accepted the underlying labor certification application for processing. See 8 C.F.R. § 204.5(d). In this case, the priority date is February 10, 2018.

² The labor certification also states that the offered position requires specific skills such as developing manufacturing control plans, performing quality control systems management, and conducting root cause analyses. The evidence submitted with the immigrant visa petition established that the Beneficiary possessed five years of post-degree progressive experience in the job offered as well as the specific skills for the offered position. The requisite experience and skills were obtained with an employer other than the Petitioner.

³ AACRAO is described on its website as "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries." <http://www.aacrao.org/who-we-are> (last visited July 22, 2020).

attended school year-round for three years on an accelerated basis, resulting in 36 months of school without a summer break.

This claim is supported by the dates on the Beneficiary's transcript and the book *Mexico: A Study of the Educational System of Mexico and a Guide to the Academic Placement of Students in Educational Institutions of the United States*, which is available on the EDGE website.⁴ This book confirms that there is an academic calendar in Mexico where "the entire year is divided into three periods of 14 weeks each which are referred to as cuatrimestres or tetramestres." *Id.* Based on the nine completed cuatrimestres, we find that the Beneficiary's *Titulo de Ingeniero* degree is equivalent to 4.5 years of study and is the foreign equivalent of a U.S. bachelor's degree.

Based on the evidence in the record, the Petitioner's arguments on appeal, and the information contained in EDGE pertaining to degrees from Mexico and cuatrimestres, we find that the Petitioner has established by a preponderance of the evidence that the Beneficiary completed a program of study resulting in a degree that is the foreign equivalent of a U.S. bachelor's degree. Therefore, the Beneficiary satisfies the requirements of the offered position as set forth on the labor certification and is eligible for classification as an advanced degree professional.

ORDER: The appeal is sustained.

⁴ Kitty Maker Villa, *Mexico: A Study of the Educational System of Mexico and a Guide to the Academic Placement of Students in Educational Institutions of the United States* 75 (1994 reprint), available with a subscription at https://www.aacrao.org/docs/default-source/edge/archives/mexico-1982-profile.pdf?sfvrsn=ba0a4381_0 (last accessed July 24, 2020).